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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,419	02/07/2002	Akihiro Miyauchi	218363US2	7879

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EXAMINER

BARNES, CRYSTAL J

ART UNIT PAPER NUMBER

2121

DATE MAILED: 12/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/067,419

Applicant(s)

MIYAUCHI ET AL.

Examiner

Crystal J. Barnes

Art Unit

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 17-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. The drawings are objected to because reference number 32 in figure 1 is hidden under Service Center labeled box and descriptions in figures 3, 4 are not clearly shown in labeled boxes. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: a typographical error "The" is shown on page 11 [0042]. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,882,206 to Gillio.

As per claim 1, the Gillio reference discloses a medical system located in a medical facility and connected via a communication network to a server system in a service center located at a distance from the medical facility, comprising: a disk unit (see column 14 lines 25-29, "CDROM, memory") which stores a plurality of ways (see column 16 lines 21-27, "mode") an operator can be guided in an operation (see column 13 lines 50-58, "interaction with reference materials") of the medical system (see column 4 lines 15-18, "virtual surgery system"); a console (see column 4 lines 35-43, "computer 100") with which the operator selects at least one of the ways ("mode"); and a communications device (see column 17 lines 7-35, "modem,

video data feed") which interchanges data with the service center (see column 17 lines 22-35, "expert surgeon") according to the selected way ("mode").

As per claim 18, the rejection of claim 1 is incorporated and further claim 18 contains limitations recited in claim 1; therefore claim 18 is rejected under the same rationale as claim 1.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-7, 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,882,206 to Gillio in view of US Pub. No. 2001/0037366 A1 to Webb et al.

As per claim 2, the Gillio reference does not expressly disclose the communications device is configured to send data displayed on a monitor of the

medical system to the service center and to receive voice information from the service center.

The Webb et al. reference discloses

(see page 3 [0039], "... communications network 6 ...")

(see page 3 [0041], "... communications hub 8 ...")

(see page 4 [0044], "... signal data obtained by camera 10 ... devices 15 for transferring voice and/or other audible information ...")

(see page 4 [0048], "... image appearing on programmer 12 may be transferred in real-time to the remote data processing system 27.")

(see page 4 [0049], "... voice and/or other audio signals to be transferred from the remote expert 26 to the local clinician 2.")

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the virtual surgery system taught by the Gillio reference with the system and method for providing remote expert communications and video capabilities for use during a medical procedure taught by the Webb et al. reference to allow medical data obtained at a local site to be transferred to a data processing system located at a remote site.

One of ordinary skill in the art would have been motivated to allow medical data obtained at a local site to be transferred to a data processing system located at a remote site so that a remotely located expert was allowed to participate in an examination or medical procedure being conducted at the local site.

As per claim 3, the Webb et al. reference discloses the communications device ("communications network 6, communications hub 8") is configured to send data displayed on a monitor of the medical system to the service center and to receive a voice information data of a demonstrated operation from the service center (see page 9 [0096], "... remote expert 26 may demonstrate ... a new feature ... remote expert may be a physician participating in a surgical procedure from a remote location.").

As per claim 4, the Webb et al. reference discloses the communications device is configured to send data displayed on a monitor of the medical system to the service center and to receive data of filming conditions from the service center (see pages 8, 9 [0094], "... remote expert 26 ... view operations exactly ... advising on the optimal use ... appropriate programming parameters ...").

As per claim 5, the Gillio reference discloses the communications device is configured to send to the service center data which commands a storing unit (see

column 17 lines 36-47, "storage library") in the service center to store voice information and data of a demonstrated operation (see column 16 lines 58-60, "simulation").

As per claim 6, the Gillio reference discloses the communications device is configured to receive voice information and data of the demonstrated operation stored (see column 16 lines 47-53, "demonstration") in the storing unit ("storage library") in the service center.

As per claim 7, the Gillio reference discloses the communications device is configured to receive voice information and data of a demonstrated operation stored (see column 16 lines 47-53, "demonstration") in a storing unit ("storage library") in the service center.

As per claim 19, the Webb et al. reference discloses further comprising a remote maintenance system (see page 8 [0087], "modify parameters").

As per claim 17, the Gillio reference discloses a server system located in an service center and connected via a communications network to a medical system in a medical facility located at a distance from the service center, comprising: a storing unit (see column 17 lines 36-47, "storage library") configured to store a

plurality of ways (see column 16 lines 21-27, "mode") an operator can be guided in an operation of the medical system (see column 4 lines 15-18, "virtual surgery system"); a data receiving device configured to receive data according to the way from the medical system; a determination unit configured to determine the way the operator is to be guided on the basis of the received data; and a sending device which sends a data according to the determined way.

The Gillio reference does not expressly disclose a data receiving device configured to receive data according to the way from the medical system; a determination unit configured to determine the way the operator is to be guided on the basis of the received data; and a sending device which sends a data according to the determined way.

The Webb et al. reference discloses

(see page 3 [0040], "... programmer 12 ...")

(see page 4 [0046], "... server system 24 ... remotely located user 26 ... data processing system 27 ...")

(see page 4 [0047], "Data processing system 27 ... audio and video data to the remote user 26 ...")

(see page 4 [0048], "... an image appearing on programmer 12 may be transferred in real time to the remote data processing system 27.")

(page 4 [0049], "This system allows voice and/or other audio signals to be transferred from the remote expert 26 to the local clinician 2.")

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the virtual surgery system taught by the Gillio reference with the system and method for providing remote expert communications and video capabilities for use during a medical procedure taught by the Webb et al. reference to allow medical data obtained at a local site to be transferred to a data processing system located at a remote site.

One of ordinary skill in the art would have been motivated to allow medical data obtained at a local site to be transferred to a data processing system located at a remote site so that a remotely located expert was allowed to participate in an examination or medical procedure being conducted at the local site.

Allowable Subject Matter

8. Claims 8-16 are allowable.

9. The following is a statement of reasons for the indication of allowable subject matter:

As per claim 8, the prior art of record taken alone or in combination fail to teach a selection unit configured to select automatically at least one of the ways based on a parameter for selection stored in the disk unit.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to communicating with a remotely located element in general:

USPN 6,522,906 B1 to Salisbury, Jr. et al.

USPN 6,490,490 B1 to Uchikubo et al.

USPN 6,409,662 B1 to Lloyd et al.

USPN 6,386,882 B1 to Linberg

USPN 6,351,671 B1 to Myklebust et al.

USPN 6,083,163 to Wegner et al.


USPN 6,024,539 to Blomquist

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Crystal J. Barnes whose telephone number is 703.306.5448. The examiner can normally be reached on Monday-Friday alternate Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anil Khatri can be reached on 703.305.0282. The fax phone number for the organization where this application or proceeding is assigned is 703.872.9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.305.3900.

cjb
December 4, 2003


ANIL KHATRI
SUPERVISORY PATENT EXAMINER